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Docket No.: 3191/08419

9200

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Roland Seebacher et al.

Serial No. 08/135,059

Art Unit: 3502

Filed: October 12, 1993

Examiner: A. Pitts

For: **POWER TRANSMITTING APPARATUS WITH FLUID COUPLING**

STATUS REQUEST

Hon. Commissioner of
Patents and Trademarks
Washington, DC 20231
Box Petition

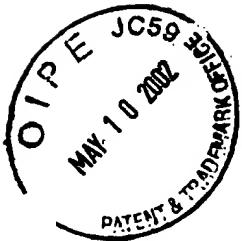
Sir:

To date, we have received no communication or official action from the
United States Patent and Trademark Office in connection with a Petition filed on
September 23, 1998 by telefax (copy enclosed) in the above-identified patent
application. Please let us know the current status of the case.

Respectfully submitted,

Henry Sternberg
Registration No. 22,408
Attorney for Applicant(s)

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Date: September 23, 1998

Attorney Docket No.: 2338/08419

TELECOPIER TRANSMISSION COVER SHEET

Phone Number Transmitting To: 1-703-305-3597

To: **United States Patent and Trademark Office**

Examiner: Mr. Saul J. Rodriguez

Group Art Unit: 3622

Paper(s) Being Transmitted: Six pages of Petition under 37 C.F.R. 1.1.36(a), 1 page of Notice of Improper CPA Filing under 37 C.F.R. 1.53(d), 3 pages of Continuing Application filed on May 11, 1998 and Seven copies of printouts.

Number of Pages Being Transmitted (including cover): 18 pages

CERTIFICATION OF FACSIMILE TRANSMISSION

Serial No.: 08/135,059

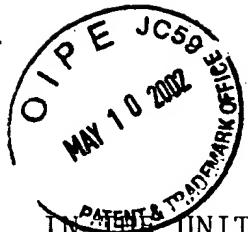
Filed: 10/12/93

I hereby certify that these papers are being facsimile transferred to the United States Patent and Trademark Office on the date shown below.

Ema Gualano
Name

September 23, 1998
Date


Signature



2338/08419

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of Roland SEEBACHER et al.
Serial No. 08/135,059
Filed 10/12/93
For POWER TRANSMITTING APPARATUS
Patent Examiner Mr. Saul J. Rodriguez
Group Art Unit 3622

PETITION UNDER 37 C.F.R. §1.136(a)

Hon. Commissioner of Patents
and Trademarks
Washington, D.C. 20231

Sir:

Your petitioners and their assignee (LuK Lamellen und Kupplungsbau GmbH), by their undersigned attorney, respectfully request that the above-referenced patent application Serial No. 08/135,059 or their CPA request deposited on May 11, 1998 (not on April 21, 1998 as stated in Paper dated July 21, 1998) be reinstated as expeditiously as possible.

The reasons for this petition are as follows:

(1) On February 25, 1998, the undersigned filed a Second Submission Under 37 C.F.R. §1.129(a) in response to the Final Action of May 8, 1997 which, in turn, was in response to the First Submission dated March 27, 1997. Receipt of the Second Submission (stating that

it was filed on March 2, 1998) is acknowledged on page 2 (or page one?) of the Advisory Action (Paper No. 23) dated April 17, 1998. A copy of Paper No. 23 is enclosed.

The undersigned attorney contacted the Patent Examiner Mr. Rodriguez per telephone on April 23 and 24 and on May 1, 1998 in order to ascertain the reasons for the Examiner's refusal to consider the Second Submission, especially in view of the fact that the First Submission has been found to be acceptable and was fully responded to in the Final Action dated March 27, 1997. Mr. Rodriguez explained that, in his opinion, the filing of any Submission was improper, that this matter was discussed with his superiors (Primary Examiner Mr. Bonck and Supervisory Primary Examiner Mr. Marmor), and that his refusal to issue a regular Action in response to the Second Submission was approved by his superiors.

(2) Since a Notice of Appeal was filed on November 10, 1997 (please refer to page one (two?) of Paper No. 23), and since the undersigned attorney desired to avoid any, even remotest, possibility that the present application would become abandoned, a Request for a Continuation Application with all necessary documents was filed on May 11, 1998 (i.e., within six months from the date (November 10, 1997) of the Notice of

Appeal: May 10, 1998 was a Sunday. Receipt of such Request is acknowledged in Paper dated July 21, 1998 a copy of which is enclosed.

(3) The Paper dated July 21, 1998 contains two obvious inaccuracies, namely:

(a) This Paper (hereinafter called Notice) states that the Continued Prosecution Application (CPA) request was deposited on April 21, 1998. Such request was filed by facsimile on May 11, 1998. Enclosed are copies of seven printouts indicating that the telefax machine in Group 3500 did not function properly and was incapable of accepting more than 18 pages in a single pass.

(b) The Notice of July 21, 1998 contains the statement that the prior application (Serial No. 08/135,059 was abandoned, or proceedings terminated on May 29, 1998.

Thus, the Notice acknowledges receipt of the Request for CPA on April 21, 1998 (this should be May 11, 1998), and the same Notice contains the statement that the application was abandoned on May 29, 1998.

(4) Upon receipt of the Notice dated July 21, 1998, the undersigned contacted the Patent Examiner Mr. Rodriguez in an effort to clarify the aforesdiscussed contradctory statements. Mr. Rodriguez informed the

undersigned that the file of the application Serial No. 08/135,059 was no longer in the Group Art Unit 3622 and, therefore, the undersigned should seek information from the official or officials in charge of petitions to revive. The undersigned sought to contact Mr. George Walton whose name appears in the lower left-hand corner of the Notice dated July 21, 1998. Mr. Walton was not available; however, the undersigned was connected with Ms. Sonia Wiliams who, in turn, connected the undersigned with her Supervisor Mrs. Adams. Mrs. Adams informed the undersigned that she cannot discusss the case without the file and that the file could not be located. When the undersigned continued to inquire, he was informed that the file can be located in one day, in one week, in two or three weeks or more than three weeks.

A total of thirteen telephone calls were made to the Patent and Trademark Office in connection with this issue between July 30 and August 12, 1998. No explanation was received to this date. Therefore, the undersigned has decided to file this petition in order to ensure that an explanation can be received in the near future and that the prosecution of this application can proceed to a successful conclusion in the very near future.

Copies of debit notes indicating the telephone numbers of the Patent Examiner Mr. Rodrigues and certain other officials mentioned in this petition, together with the dates of the telephone calls made to such officials are available and can be furnished upon request.

(5) Your petitioners herewith respectfully request the following dispositions:

(A) Reinstatement of the application Serial No. 08/135,059 or of the CPA application at a very early date (emphasis by the undersigned).

(B) Affording a new term for the filing of a Brief on Appeal or of a CPA application if the PTO will decide to reinstate the application Serial No. 08/135,059.

(C) An Action on the merits of the claims which were filed with the CPA application on May 11, 1998 if the PTO will decide to accept the request for the filing of the CPA application.

(D) An extension of the term of the patent to be granted on the application Serial No. 08/135,059 or of the patent to be granted on the CPA application (if and when granted) commensurate with the period of time which will elapse in connection with the reinstatement of Serial No. 08/135,059 or the delayed

filling of the CPA application.

(6) Your petitioners sincerely believe that no fee is due to be paid in connection with the filing of this petition. However, if the PTO is of the opinion that a fee is to be paid in spite of the fact that the application Serial No. 08/135,059 stands abandoned due to certain erroneous conclusions, decisions and/or interpretations by the PTO, applicants herewith respectfully request that such fee or fees be charged to the account No. 04-0100 of DARBY & DARBY, P.C.

A favorable disposition at the earliest possible date is earnestly solicited.

Respectfully submitted,

DARBY & DARBY, P.C.

Dated: 09/21/98

By Peter K. Kontler
Peter K. Kontler
Reg. No. 20,384

Encls.